

5 May, 2017

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WC Docket 17-108: Restoring Internet Freedom

Ms. Dortch:

This letter is to advise you that on 5 May, 2017, at approximately 5:15 PM Eastern Standard Time, I had a brief telephone conversation with Nicholas Degani of the office of Chairman Ajit Pai.

I explained to Mr. Degani that, as the owner and operator of LARIAT, the world's first WISP (fixed, terrestrial wireless ISP), I agreed 100% with Chairman Pai's desire to reverse the Commission's misclassification of Internet access service – which is explicitly classified in statute at 47 USC 230(f) as a Title I data service – as a Title II, common carrier telecommunications service. However, I also expressed my company's concern that his move to do so could simply be reversed by a future FCC when control of the White House shifted between political parties.

I further voiced our very serious concern that if FCC-CIRC1705-05 (the NPRM now in circulation, but not yet voted upon) were to issue, the United States Supreme Court – citing the doctrine of exhaustion of administrative remedies – might deny certiorari to *United States Telecom Association v. FCC*, a lawsuit challenging the misclassification.

I explained to Mr. Degani that my small, independent, competitive rural Internet service provider had experienced difficulties obtaining investment due to the continued uncertainty surrounding regulation of the Internet and ISPs, and that a successful appeal of the lawsuit to the Supreme Court was – given Congress' continued gridlock – the most likely path to a certain and lasting outcome. I noted that if it did take the case, the Court might also rule on underlying issues such as the extent of deference that should be accorded to the Commission under *Chevron*.

I therefore asked Mr. Degani to convey to the Chairman our desire that he shelve the NPRM until and unless certiorari was not granted in the case. We further asked that he specifically publish a statement saying that he preferred the Court to rule on the case before acting, encouraging it to settle some or all of the issues it raised.

While it is unclear whether the Commission's ex parte rules apply to discussions of items which are being circulated but have not yet been adopted, I am filing this letter electronically, out of an abundance of caution, via the Commission's Electronic Comment Filing System to ensure compliance with Section 1.1206(b)(2) of the Commission's rules.

Sincerely,

/s/

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